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| GARDNER GROFF GREENWALD & VILLANUEVA, PC 2018 POWERS FERRY ROAD SUITE 800 ATLANTA, GA 30339 | | | CHIN SHUE, ALVIN C | | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

MAILED

Application Number: 09/954,838
Filing Date: September 12, 2001
Appellant(s): JONES, D. KEITH

NOV 16 2007

GROUP 3600

Attorney Gardner
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 9/5/07 appealing from the Office action mailed 12/28/06.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The following are the related appeals, interferences, and judicial proceedings known to the examiner which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal:

SN. 10/982,033.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

| | | |
|--------------|-----------------|--------|
| GB 2,259,855 | Miller | 3-1993 |
| 4,493,391 | Van Patten | 1-1985 |
| 6,059,266 | Ascherin et al. | 5-2000 |
| 4,090,584 | Wagner | 5-1978 |

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 9,10,14 and 16 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by G.B. pat.'855 to Miller. Miller shows a standing line 1, rope coupler 6 having a Prusik hitch at 9, and a harness at 3.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Miller in view of Van Patten. Miller shows the claimed system with the exception of the clip. Van Patten shows a line with a clip 14 for forming a loop for anchoring the line. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the rope line 1 of Miller with a clip, as taught by Van Patten, to form a loop with his line.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Miller in view of Ascherin et al. Miller shows the claimed system with the exception of the smaller line coupler. Ascherin shows a sliding rope coupler 90 having a smaller diameter than a larger supporting line 50. It would have been obvious to one of ordinary skill in the art at the time the invention was made to

modify Miller for his standing line to comprise a larger diameter than his rope coupler 6, as taught by Ascherin, to enable a stronger standing supporting line.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Miller in view of Wagner. Miller shows the claimed system with the exception of the belt harness. Wagner shows a belt harness. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide Miller with a belt harness, as taught by Wagner, to enhance support around a user's waist.

(10) Response to Argument

Appellant's arguments filed 9/5/07 have been fully considered but they are not persuasive. Appellant argues that Miller does not anticipate the claims as stated above because Miller's Prusik Hitch is not used for resisting a fall. The examiner disagrees. It is noted that Miller teaches all the claimed elements, applicant has not pointed out any claimed element not taught by Miller, and his Prusik Hitch is used to freely move along his standing rope 1 when a load is not applied thereto and progressively tightens (such is an inherent feature of a Prusik Hitch) upon the standing rope when a load is applied thereto as in the case of a fall by the user thereby providing a progressive braking action (note page 4, lines 15-24). Thus Millers meets all the requirement of 35 U.S.C. 102 and therefor the above applied to claims are properly anticipated by Miller. Appellant argues that the Prusik Hitch

of Miller is constantly load bearing, the examiner disagrees because if it was constantly load bearing it would not be able to be repositioned. Nevertheless, the claims are directed to articles that include the interconnection of a standing rope line, Prusik hitch rope coupler and harness, and as stated Miller teaches all and all its elements are capable of function as argued by Appellant. With respect to claim 16, the harness of Miller shown at 3 has a belt and thus is considered to be a belt harness as broadly recited, nevertheless the reference to Wagner was used to show that harness comprising only a belt is conventional and may be substituted for the harness as taught by Miller. With respect to claim 13, Ascherin et al. shows a standing line 50 and rope coupler 90 having a Prusik hitch, Figs. 1a,b and Figs 2a,b clearly shows that the rope coupler 90 is of a lesser diameter than the standing line 50. (column 3, lines 1-15 merely states that the line 50 is one-half inch, nowhere does Ascherin state that both lines 50 and 90 are of the same diameter as erroneously stated by Appellant. With respect to the Declaration under Rule 1.132 for secondary consideration, Appellant's claimed articles of a rope coupler and standing line and harness is anticipated by Miller, also the "article", not its use, of a line and Prusik hitch coupler having different diameter is anticipated by Ascherin, and secondary consideration is not applicable with respect to

anticipation. It is further noted that the Affidavit is "directed to the use of the knot for arresting a fall".

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

ACS

Conferees:

Meredith Petravick; 
Brian Glessner; 
Alvin Chin-Shue; 